

The Senate Health and Human Services Committee offered the following substitute to SB 425:

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 2 of Title 37 of the Official Code of Georgia Annotated, relating to general provisions relative to administration of mental health, developmental disabilities, addictive diseases, and other disability services, so as to revise the definition of "health services"; to further limit eligibility to be appointed to a community service board; to revise the minimum number of members for certain community service boards; to provide restrictions on conflicts of interest for board members; to revise provisions relating to nonprofit corporations created by a community service board; to authorize community service boards to provide health services; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to general provisions relative to administration of mental health, developmental disabilities, addictive diseases, and other disability services, is amended by revising paragraph (5) of Code Section 37-2-2, relating to definitions, as follows:

"(5) 'Health services' means any ~~education or service provided by the department, the Department of Community Health, or the Department of Human Services, either directly or by contract~~ diagnostic, treatment, and rehabilitation services, including outpatient medical services, dental or oral health care, or any other services incident to the furnishing of such services, rendered by physicians, dentists, nurses, or other persons who are licensed or otherwise authorized in this state to furnish such services and provided to any person for the purpose of maintaining good health and preventing, alleviating, curing, or healing human illness and injury."

SECTION 2.

Said article is further amended in Code Section 37-2-6, relating to the creation, membership, participation of counties, transfer of powers and duties, alternate method of establishment, bylaws, and prohibited reprisals regarding community mental health, developmental disabilities, and addictive diseases service boards, by revising paragraph (4) of subsection (b) and subsection (i) and by adding a new subsection to read as follows:

"(4)(A) A person shall not be eligible to be appointed to or serve on a community service board if such person is:

(i) A member of the regional planning board which serves the region in which that community service board is located;

(ii) An employee or board member of a public or private entity which contracts with the department, the Department of Human Services, or the Department of Community Health to provide mental health, developmental disabilities, and addictive diseases services or health services within the region; ~~or~~

(iii) An employee of that community service board or employee or board member of any private or public group, organization, or service provider which contracts with or receives funds from that community service board; or

(iv) A former employee of that community service board whose most recent employment was less than two years prior.

(B) A person shall not be eligible to be appointed to or serve on a community service board if such person's spouse, parent, child, or sibling is a member of that community service board or a member, employee, or board member specified in this paragraph.

With respect to appointments by the same county governing authority, no person who has served a full term or more on a community service board ~~may~~ shall be appointed to a regional planning board until a period of at least two years has passed since the time such person served on the community service board, and no person who has served a full term or more on a regional planning board may be appointed to a community service board until a period of at least two years has passed since the time such person has served on the regional planning board."

"(i) Each community service board which is composed of members who are appointed thereto by the governing authority of only one county shall have a minimum of ~~six~~ seven and no more than 13 members, not including any additional members appointed pursuant to paragraph (2) of subsection (b) of this Code section, notwithstanding the provisions of subsection (b) of this Code section, which members in all other respects shall be appointed as provided in this Code section."

"(o) A member of the governing board of a community service board shall have a fiduciary responsibility to avoid any conflict of interest. When such governing board is to decide an

61 issue about which a member has an unavoidable conflict of interest, said member shall
62 absent herself or himself without comment from not only the vote, but also from any
63 deliberation on said issue. Board members shall not use their positions to obtain
64 employment with the community service board, its funding sources, or its suppliers of
65 goods and services for themselves, family members, or close associates. Should a board
66 member desire such employment, such member shall first resign. A board member or a
67 member of the board member's family may obtain disability or health services from the
68 community service board in the ordinary course of the community service board's provision
69 of such disability or health services on the same terms and under the same conditions
70 applicable to any member of the public. An individual board member shall not exercise
71 individual authority over the community service board's operations, affairs, property, or
72 personnel, except when such member's action is explicitly permitted by action of the
73 governing board of the community service board by policy or by resolution."

74 **SECTION 3.**

75 Said article is further amended in Code Section 37-2-6.1, relating to the program director,
76 staff, budget, facilities, powers and duties, and exemption from state and local taxes
77 regarding community service boards, by revising subsection (j) as follows:

78 "(j) A community service board may create, form, or become a member of a nonprofit
79 corporation, limited liability company, or other nonprofit entity, the voting membership of
80 which shall be limited to community service boards, governmental entities, nonprofit
81 corporations, or a combination thereof, if such entity is created for purposes that are within
82 the powers of the community service board, for the cooperative functioning of its members,
83 or a combination thereof; provided, however, that no funds provided pursuant to a contract
84 between the department and the community service board ~~may~~ shall be used in the
85 formation or operation of the nonprofit corporation, limited liability company, or other
86 nonprofit entity. Any nonprofit corporation created pursuant to this subsection shall be
87 created pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and
88 the Secretary of State shall be authorized to accept such filings. The members of the
89 governing board of the community service board shall appoint the members of the board
90 of directors of a nonprofit corporation created in accordance with this subsection; provided,
91 however, that the members of the governing board of the community service board may
92 constitute all or a portion of the membership of the board of directors of such nonprofit
93 corporation, and service as a director of such nonprofit corporation in and of itself shall not
94 constitute a conflict of interest by a member of the governing board of a community service
95 board. Upon dissolution of any nonprofit corporation of the community service board, any
96 assets shall revert to the community service board or to any successor of the community

97 service board or, failing such succession, to the State of Georgia. The community service
98 board shall not be liable for the debts or obligations of any nonprofit corporation or for the
99 actions or omissions to act of any nonprofit corporation incorporated by that community
100 service board unless that community service board expressly so consents. No community
101 service board, whether or not it exercises the power authorized by this subsection, shall be
102 relieved of compliance with Chapter 14 of Title 50, relating to open and public meetings,
103 and Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless
104 otherwise provided by law."

105 **SECTION 4.**

106 Said article is further amended by adding a new Code section to read as follows:

107 "37-2-6.6.

108 (a) The General Assembly finds that serious physical health conditions among persons
109 with a disability impact their quality of life and contribute to disproportionate premature
110 death. The General Assembly further finds that many such conditions among persons with
111 a disability are preventable through routine health promotion activities, primary care
112 screening, treatment monitoring, and care management and coordination, and that many
113 such conditions are often exacerbated by inadequate physical activity, poor nutrition,
114 smoking, substance abuse, and the side effects of psychotropic medications. Insofar as
115 persons with a disability seek and obtain services from community service boards and other
116 community based disability services providers under contract with the department, it is the
117 purpose of this Code section to improve the physical health status of persons with a
118 disability by fostering partnerships to integrate disability and health services and by
119 supporting the integration of health services into the services, programs, and facilities of
120 community service boards and other community based disability providers.

121 (b) As used in this Code section, the term:

122 (1) 'Health benefit plan' means the health insurance policy or subscriber agreement
123 between a covered person or policyholder and a health care insurer which defines the
124 covered services and benefit levels available.

125 (2) 'Health care insurer' means an insurer, a fraternal benefit society, a health care plan,
126 a nonprofit medical service corporation, a nonprofit hospital service corporation, a health
127 care corporation, a health maintenance organization, or any other entity authorized to sell
128 accident and sickness insurance policies, subscriber certificates, or other contracts of
129 health insurance by any other name under Title 33, relating to insurance.

130 (c) With the approval of its governing board, a community service board may provide
131 health services.

(d) A community service board may provide health services directly or may contract with one or more physicians, dentists, nurses, or other persons who are licensed or otherwise authorized in this state to furnish health services; group practices; health clinics or centers; county boards of health; health districts established pursuant to Code Section 31-3-15; public or private hospitals; hospital authorities; medical schools; training and educational institutions; associations; departments and agencies of the state; county and municipal government; the United States government; or any other legal entity, including a federally qualified health center as described in Section 1395x (aa)(4) of Title 42 of the United States Code Annotated or a rural health clinic as described in Section 1395x (aa)(2) of Title 42 of the United States Code Annotated, to partner with or assist the community service board in providing health services.

(e) As a provider of health services, a community service board:

(1) Shall enroll as a provider in medicare, Medicaid, and the PeachCare for Kids programs;

(2) May limit the provision of health services to persons with a disability or to persons receiving disability services from the community service board or other providers of disability services;

(3) May contract with the department, the Department of Community Health, or the Department of Human Services to provide any education or health service provided by the department, the Department of Community Health, or the Department of Human Services;

(4) Shall have the opportunity to become a participating provider of health services in a health benefit plan. Provisions within a health benefit plan applicable to providers in such health benefit plan shall be applied by the health care insurer in a uniform and consistent manner to similarly situated providers. In the event a community service board requests the opportunity to become a participating provider in any health benefit plan, the health care insurer shall conduct reasonable and good faith negotiations with such community service board to determine whether it meets the applicable qualifications and standards established by the health benefit plan in accordance with all applicable laws, rules, and regulations as promulgated by the Commissioner of Insurance; and

(5) May exercise its power authorized by subsection (j) of Code Section 37-2-6.1 to create, form, or become a member of a nonprofit corporation by creating, forming, collaborating with, or becoming a member of a federally qualified health center as described in Section 1395x (aa)(4) of Title 42 of the United States Code Annotated or a rural health clinic as described in Section 1395x (aa)(2) of Title 42 of the United States Code Annotated and, if necessary, appointing a governing board thereof that meets membership requirements set forth in said sections of the United States Code Annotated."

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SECTION 5.

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All laws and parts of laws in conflict with this Act are repealed.